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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,905	11/03/2003	Ian Zetterstrom Smith	36245	5353

116 7590 02/08/2005

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EXAMINER
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NOVOSAD, CHRISTOPHER J

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/699,905

Applicant(s)

SMITH, IAN ZETTERSTROM

Examiner

Christopher J. Novosad

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 November 2003 and 26 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 and 19-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 19-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 February 2004 and 26 May 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/20/4, 3/8/4, 4/13/4.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

Claims 6-18 have been canceled.

#### ***Drawing Objection***

The drawing is objected to because the numeral “3” referred to in the specification (page 4, line 2) is not shown.

#### ***Specification***

The abstract of the disclosure is objected to because it contains legal language, specifically “means” in lines 4, 5 and 8. Correction is required. See MPEP § 608.01(b).

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-5 and 19-31 are rejected under 35 USC 112, second paragraph, as being indefinite.

In parent claim 1, lines 7 and 8, there is no proper antecedent basis for the recitation of “the axis of the drive means.” Dependent claims 2-5 and 19-31 are indefinite for the same reason as parent claim 1.

Further, claim 30 and its dependent claim 31 are indefinite because there is no proper antecedent basis for the recitations of “the axis of rotation of the roller means” and “the axis of rotation of the cutter means” in lines 1 and 2 of claim 30.

***Claim Rejections – 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section of this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 30 and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Allegretti *et al.* (USP 3,086,596) (hereinafter referred to as Allegretti *et al.*) as follows:

Regarding claim 1, Allegretti *et al.* disclose a lawn trimmer and edger (Figs. 1-4) comprising a cutting head (21,28,72) having a guard (17,73,74) housing a cutter means (15), a shaft (handle 18) for supporting the cutting head (21,28,72), roller means (11) rotatably mounted with respect to the cutting head (21,28,72), and drive means (13,33) for driving the cutter means (15), the roller means (11) being located outside the guard (17,73,74) on the drive means side thereof, the cutting head being connected to the shaft (18) by connection means permitting the cutting head to be positioned with its cutter means either substantially horizontal or substantially vertical (Figs. 1, 5 and 8, at 87-91,95, see particularly col. 2, lines 42-51 and col. 5, lines 14-39 regarding converting the implement from an edger to a trimmer), the roller means (11) being sized to contact the ground when the cutter means is substantially vertical and to circumscribe the axis of the drive means (Figs. 1 and 3), the arrangement being such that the cutter means extends beyond the circumference of the roller means (Figs. 1 and 3).

Regarding claim 2, the connection means of Allegretti *et al.* (Figs. 1, 5 and 8 at 87-91 and 95), as discussed above, is clearly a “rotatable joint” (see particularly col. 5, lines 33-37 wherein the handle 18 is “turned in clockwise direction through approximately 45 degrees” for converting from an edger to a trimmer) as recited in the claim.

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With respect to claim 30, the edger/trimmer of Allegretti *et al.* (Fig. 3) shows the axis of rotation of the roller means to be “substantially coincident with the axis of rotation of the cutter means,” and regarding claim 31, shows that the radius of the roller means (11) “is of the order of, but slightly less than, the effective radius” of the cutter means (15), as broadly recited.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Allegretti in view of Marshall *et al.* (Patent Application Publication US2001/0034940).

Allegretti *et al.* show the trimmer as noted.

Claim 29 distinguishes over Allegretti *et al.* in requiring the “cutter means” to be “a rotatable cutter line” whereas Allegretti *et al.* disclose the cutter means to be a circular, toothed blade 15 (Figs. 1-3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have substituted a conventional rotatable cutter line or cord-type cutter, e.g., as disclosed in Marshall *et al.*, for the circular, toothed, cutter blade in Allegretti *et al.* because of the obvious higher safety benefit in using a cord-type cutter line as opposed to the higher probability of injury to an operator when using a motor-driven, circular, toothed, metal cutter blade.

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*Allowable Subject Matter*

Claims 3-5 and 19-28 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher J. Novosad whose telephone number is 703-308-2246. The examiner can normally be reached on Monday-Thursday 5:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Will can be reached at 703-308-3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Christopher J. Novosad  
Primary Examiner  
Art Unit 3671

February 7, 2005